

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>BRANDON COOK,</p> <p>Plaintiff,</p> <p>vs.</p> <p>AMERICA’S SERVICING COMPANY, a division of Wells Fargo Bank, N.A.,</p> <p>Defendant.</p>	<p>MEMORANDUM DECISION AND ORDER DENYING WITHOUT PREJUDICE PLAINTIFF’S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION</p> <p>Case No. 10-CV-1233 TS</p>
---	--

This matter is before the Court on Plaintiff’s Ex Parte Motion for Temporary Restraining Order and Motion for Preliminary Injunction seeking to prevent a foreclosure sale of Plaintiff’s home on January 5, 2011. The justification for the Motion being ex parte is that Defendant is a large company and, if the motion were served on Defendant’s registered agent, Defendant would not have time to review the documents and assign local counsel before the foreclosure sale.

DUCivR 7-1(b)(4)(B) requires that Defendant file a memorandum in opposition to motions seeking temporary restraining orders “within fourteen (14) days after service of the


motion or within such time as allowed by the court.” Because the foreclosure sale is scheduled to occur in three weeks, there is time for Plaintiff to serve a motion for temporary restraining order on Defendant’s registered agent and for Defendant to have fourteen days to respond. Thus, there is no reason for the Court to proceed on an ex parte basis.

Plaintiff may proceed with his Motion by re-filing it as a non-ex parte motion. If he chooses to do so, Plaintiff shall serve the Motion and a copy of this Order on Defendant by Thursday, December 16, 2010 and shall file a certificate of service with the Court. Defendant’s response will be due on or before Monday, January 3, 2011. Based on the foregoing, it is hereby

ORDERED that Plaintiff’s Ex Parte Motion for Temporary Restraining Order and Motion for Preliminary Injunction (Docket No. 4) is DENIED without prejudice.

DATED December 15, 2010.

BY THE COURT:



TED STEWART
United States District Judge